

[25th October 1971]

APPENDIX III

(Vide item V (2) on pages 203 .)

L.A. Bill No. 35 of 1971.

(As passed by the Assembly)

A Bill to provide for the acquisition of stage carriages of fleet operators holding fifty or more stage carriage permits and for certain other matters connected therewith in the State of Tamil Nadu.

WHEREAS under clauses (b) and (c) of Article 30 of the Constitution of India, the State should, in particular, direct its policy towards securing that the ownership and control of the material resources of the community are so distributed as best to subserve the common good and that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;

AND WHEREAS for that purpose it is expedient to nationalise the commanding heights of the economy;

AND WHEREAS it is necessary in the public interest to acquire all passenger transport divisions of fleet operators holding fifty or more stage carriage permits;

BE it enacted by the Legislature of the State of Tamil Nadu in the Twenty-second Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Tamil Nadu Fleet Operators Stage Carriages (Acquisition) Act, 1971.

(2) It shall come into force at once.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) “acquired property” means the stage carriages and other property vesting in the Government under section 3;

(b) “administrator” means an administrator appointed under section 13;

(c) “authorised officer” means an authorised officer appointed under section 14;

(d) “award” means any award of an arbitrator made under section 5;

(e) “fleet operator” means an operator holding on the 19th June 1971 or on any date subsequent to the 19th June 1971 fifty or more stage carriage permits notwithstanding that all or any of such stage carriage permits had expired after the said date but before the notified date :

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Provided that in computing the number of stage carriage permits for the purposes of this clause,—

(i) the number of permits in respect of reserve vehicles kept by the operator to maintain the service; or

(ii) the number of temporary permits granted under clause (a), clause (b) or clause (c) of section 62 of the Motor Vehicles Act shall be excluded.

(f) "Government" means the State Government;

(g) "Motor Vehicles Act" means the Motor Vehicles Act, 1939 (Central Act IV of 1939);

(h) "notified date" in respect of any fleet operator means the date specified in the notification issued under sub-section (1) of section 3 in respect of such fleet operator;

(i) "operator" means any person whose name is entered in the stage carriage permit as the holder thereof;

(j) "permit" means the permit granted under the Motor Vehicles Act authorising the use of a vehicle as a stage carriage in any part of the State;

(k) "person interested" in relation to any acquired property includes the fleet operator and any other person claiming, or entitled to claim, an interest in the compensation payable on account of the acquisition of such property under this Act;

(l) "stage carriage" shall have the same meaning as in clause (29) of section 2 of the Motor Vehicles Act and includes—

(i) any movable property ancillary or incidental to the maintenance and control of such stage carriage;

(ii) any right in or over such stage carriage or movable property; and

(iii) any reserve vehicles or vehicles run on temporary permits;

(m) words and expressions used herein and not defined but defined in the Motor Vehicles Act shall have the meanings respectively assigned to them in that Act.

3. *Vesting of stage carriages, etc., in the Government*—(1) On and from such date as may be notified by the Government in this behalf in respect of any fleet operator, every stage carriage owned or operated by such fleet operator shall vest in the Government absolutely and free from all encumbrances.

(2) Upon the issue of a notification under sub-section (1) in respect of any fleet operator—

(i) all lands, buildings, work-shops and other places and all stores, instruments, machinery, tools, plants, apparatus and other equipment exclusively used for the maintenance or repair of, or otherwise in connection with the service of, stage carriages; and

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(ii) all books of accounts, registers, records, and all other documents of whatever nature relating to the stage carriages vested in the Government under sub-section (1) or to the property mentioned in clause (i); shall vest in the Government absolutely and free from all encumbrances.

(3) the stage carriage and other property vesting in the Government under sub-section (1) and sub-section (2) shall with effect on and from the notified date be deemed to have been acquired for a public purpose.

(4) Before issuing a notification under sub-section (1), the Government shall call upon the fleet operator to show cause why the stage carriages and other property referred to in sub-sections (1) and (2) should not be acquired and after considering the cause, if any, shown by the fleet operator and after giving the fleet operator an opportunity of being heard, the Government may pass such orders as they deem fit.

4. *Duty of fleet operator to furnish particulars.*—The fleet operator shall, within thirty days from the notified date or within such further time as the Government may allow in this behalf, furnish to the Government or any officer authorised by them in this behalf complete particulars of all liabilities and obligations incurred on the security of the acquired property and subsisting on the notified date and also of all agreements and other instruments pertaining to the acquired property (including agreements, decrees, awards, standing orders and other instruments relating to leave, pension, gratuity, provident fund and other terms of services of any person exclusively employed in relation to the acquired property) in force immediately before the notified date and the Government shall afford him all reasonable facilities for this purpose.

5 *Principles and method of determining compensation.*—The compensation for the acquired property shall be determined in accordance with the principles specified in the Schedule and in the manner hereinafter set out, that is to say,—

(a) the amount of compensation can be fixed by agreement;

(b) where no such agreement can be reached, the Government shall appoint as arbitrator a person who is, or has been, or is qualified for appointment as, a Judge of a High Court;

(c) the Government may, in any particular case, nominate a person having expert knowledge as to the nature of the acquired property to assist the arbitrator and where such nomination is made, the person interested may also nominate an assessor for the same purpose;

(d) at the commencement of the proceedings before the arbitrator, the Government and the person interested shall state what in their respective opinion is a fair amount of compensation;

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(e) the arbitrator shall, hearing the dispute, make an award determining the amount of compensation which appears to him to be just and specifying the person or persons to whom such compensation shall be paid; and in making the award he shall have regard to the circumstances of each case and the provisions of the Schedule, so far as it is applicable;

(f) where there is any dispute as to the person or persons who are entitled to the compensation, the arbitrator shall decide such dispute and if the arbitrator finds that more persons than one are entitled to compensation, he shall apportion the amount thereof amongst such persons;

(g) nothing in the Arbitration Act, 1940 (Central Act X of 1940), shall apply to arbitrations under this Act.

6. *Payment of compensation.*—The amount of compensation determined under section 5 shall be paid to the person interested after giving reasonable notice to all the persons interested.

7. *Compensation to be substituted security in certain cases.*—Any debt, mortgage, charge or other encumbrance or lien, trust or similar obligation attaching to the acquired property shall attach to the compensation payable under this Act in substitution for the acquired property.

8. *Compensation liable to deduction in certain cases.*—(1) The Employees' Provident Fund Commissioner or the Employees' State Insurance Corporation may send to the arbitrator a certificate in respect of either the employer's contribution or the employees' contribution realised by the employer or any other dues recoverable from the employer under the Employees' Provident Fund Act, 1952 (Central Act XIX of 1952) or the Employees' State Insurance Act, 1948 (Central Act XXXIV of 1948), as the case may be in respect of any person who was exclusively employed in connection with the acquired property immediately before the notified date that the employer may have failed to pay in accordance with the respective Acts.

(2) Any person who was employed exclusively in connection with the acquired property immediately before the notified date may prefer before the arbitrator any claim relating to any salary, wages, leave salary, bonus, pension, gratuity, provident fund, or other payment due to him or the proportionate amount thereof in respect of any service rendered by him in connection with the acquired property.

(3) Subject to the provisions of sub-section (4), the Government shall, after the claims of secured creditors are satisfied, be entitled to deduct from the compensation payable to the fleet operator an amount equal to the amount required to discharge the liabilities referred to under sub-sections (1) and (2) or obligation

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of whatever kind (including liability in respect of provident or superannuation fund or any other fund subsisting with the fleet operator on the notified date) in relation to persons who have become the employees of the corporation or company under sub-section (3) of section 15.

(4) The claims made under sub-section (1) or sub-section (2) and any dispute regarding the amount to be deducted under sub-section (3) shall be decided by the arbitrator who shall follow such procedure as may be prescribed in this behalf.

9. *Manner of payment of compensation.*—(1) The amount of compensation determined under section 5 shall be given by the Government to the person interested at his option,—

(a) in cash (to be paid by cheque drawn on the Reserve Bank) in three equal annual instalments, the amount of each instalment carrying interest at the rate of six per cent per annum from the notified date, or

(b) in saleable or otherwise transferable promissory notes or stock certificates of the Government issued and repayable at par, and maturing at the end of—

(i) ten years from the notified date and carrying interest from such date at the rate of six and a half per cent per annum, or

(ii) thirty years from the notified date and carrying interest from such date at the rate of seven and a half per cent per annum, or

(c) partly in cash (to be paid by cheque drawn on the Reserve Bank) and partly in such number of securities specified in sub-clause (i) or sub-clause (ii), or both, of clause (b), as may be required by the person interested, or

(d) partly in such number of securities specified in sub-clause (i) of clause (b) and partly in such number of securities specified in sub-clause (ii) of that clause, as may be required by the person interested.

(2) The first of the three equal annual instalments referred to in clause (a) of sub-section (1) shall be paid, and the securities referred to in clause (b) of that sub-section shall be issued, within sixty days from the date of receipt by the Government of the option referred to in that sub-section, or where no such option has been exercised, from the latest date before which such option ought to have been exercised.

(3) The option referred to in sub-section (1) shall be exercised by the person interested before the expiry of a period of three months from the notified date (or within such further time, not exceeding three months, as the Government may, on the application

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of the person interested, allow) and the option so exercised shall be final and shall not be altered or rescinded after it has been exercised.

(4) Any person interested who omits or fails to exercise the option referred to in sub-section (1), within the time specified in sub-section (3), shall be deemed to have opted for payment in securities specified in sub-clause (i) of clause (b) of sub-section (1).

(5) Notwithstanding anything contained in this section, any person interested may, before the expiry of three months from the notified date (or within such further time, not exceeding three months, as the Government may, on the application of the person interested, allow) make an application in writing to the Government for an interim payment of an amount equal to twenty-five per cent of the amount of compensation as roughly estimated in the manner prescribed, indicating therein whether the payment is desired in cash or in securities specified in sub-section (1), or in both.

(6) The Government shall, within sixty days from the receipt of the application referred to in sub-section (5), make the interim payment to the person interested in accordance with the option indicated in such application.

(7) The interim payment to a person interested under sub-section (6) shall be set off against the total amount of compensation payable to such person interested under this Act and the balance of the compensation remaining outstanding after such payment shall be given to the person interested in accordance with the option exercised, or deemed to have been exercised, under sub-section (3) or sub-section (4), as the case may be :

Provided that where any part of the interim payment is obtained by a person interested in cash, the payment so obtained shall be set off, in the first instance, against the first instalment of the cash payment referred to in sub-section (1) and in case the payment so obtained exceeds the amount of the first instalment, the excess amount shall be adjusted against the second instalment and the balance of such excess amount, if any, against the third instalment of the cash payment.

10. *Appeals from awards in respect of compensation.*—Any person aggrieved by an award may, within thirty days from the date of such award, prefer an appeal to the High Court :

Provided that the High Court may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

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11. *Arbitrator and authorised officer to have certain powers of civil court.*—The arbitrator appointed under section 5, while holding arbitration proceedings under this Act, and the authorised officer while deciding a dispute under section 14, shall have all the powers of a civil court, while trying a suit, under the Code of Civil Procedure, 1908 (Central Act V of 1908), in respect of the following matters, namely :—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) reception of evidence on affidavits;
- (d) requisitioning any public record from any court or office,
- (e) issuing commissions for examination of witnesses.

12. *Effect of transactions not bona fide.*—Where the Government are of opinion that any fleet operator has on or after the 19th June 1971 disposed of any asset relating to the service of stage carriages or the maintenance or repair of, or otherwise in connection with the service of, stage carriages whether by way of sale, exchange, gift, lease or otherwise or incurred capital expenditure, otherwise than in the normal course of events with a view to benefit unduly the fleet operator or some other person and thereby caused loss to the Government as succeeding owners of the acquired property, the Government shall be entitled to deduct from the compensation payable to the fleet operator under this Act an amount which they consider to be the loss sustained by them :

Provided that notice of the intention to make such deduction shall be given to the fleet operator within one year from the notified date.

13. *Appointment of Administrators.*—The Government may appoint such number of officers as may be considered necessary as Administrators for arranging the take over of the acquired property and to carry out such other duties as may be assigned to them by the Government for carrying out the purposes of this Act.

14. *Appointment of Authorised Officers.*—(1) The Government may appoint such number of officers as may be considered necessary and possessing such qualifications as may be prescribed as authorised officers for the purposes of this Act.

(2) If any dispute arises as to whether any property referred to in sub-section (2) of section 3 was on the notified date being exclusively used for the maintenance or repair of, or otherwise in connection with the services of, stage carriages, such dispute shall be decided by the authorised officer in accordance with such procedure as may be prescribed.

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(3) Any person aggrieved by a decision of the authorised officer may, within thirty days from the date of such decision, prefer an appeal to the Government :

Provided that the Government may entertain the appeal after the expiry of the said period of thirty days, if they are satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

15. *Transfer of acquired property to corporation or company and provision for existing staff.*—(1) The Government shall immediately after the vesting of the acquired property under section 3 by order transfer the whole of the said property in favour of such corporation or company owned by the Government as the Government may specify in such order.

(2) Where in pursuance of sub-section (1) any stage carriage is transferred to any corporation or company owned by the Government, the permit in respect of such stage carriage shall, notwithstanding anything contained in the Motor Vehicles Act, be deemed to have been transferred in favour of such corporation or company and such permit shall be valid for the unexpired period thereof. After the expiry of the said period, such corporation or company shall be exclusively entitled to the renewal of such permit and an application for such renewal may be made by the corporation or company at any time before the expiry of the said permit and the period specified in clause (a) of sub-section (2) of section 58 of the Motor Vehicles Act, shall not apply to such application.

(3) Every employee of the fleet operator exclusively employed in connection with the acquired property immediately before the notified date shall hold his office or service in the corporation or company referred to in sub-section (1) on the same terms and conditions and with the same rights to pension, gratuity, and other matters as would have been admissible to him if the acquired property had not vested in the Government and transferred to the corporation or company and continue to do so unless and until his employment in such corporation or company is terminated or until his remuneration, terms or conditions are duly altered by such corporation or company :

Provided that in the case of employees to whom labour laws for the time being in force apply, no such termination or alteration of remuneration, terms or conditions of service shall be made except in accordance with such laws.

(4) If any question arises as to whether any person was exclusively employed in connection with the acquired property immediately before the notified date, it shall be decided by the authorised officer and an appeal shall lie to the Government under sub-section (3) of section 14.

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(5) For the persons who immediately before the notified date were trustees for any pension, provident, gratuity or other like fund constituted for the employees referred to in sub-section (3), other than trustees nominated by or under any law, there shall be substituted as trustees, such persons as the Government may by general or special order specify.

(6) (a) All sums deducted by the Government under sub-section (3) of section 8 shall stand transferred to the corporation or company referred to in sub-section (1).

(b) Such corporation or company shall credit the sums so transferred to the appropriate funds or if any part of the sums is payable to the employee directly, such part shall be paid to him directly.

(7) The transfer of an employee to the corporation or company under sub-section (3) shall not entitle any such employee to any compensation and no such claim shall be entertained by any court, tribunal, or other authority.

16. *Inventory of property and information in regard to the documents maintained by the fleet operator.*—(1) Every fleet operator shall within fifteen days from the date on which the fleet operator was asked to show cause under sub-section (4) of section 3, prepare and hand over to the Government the complete inventory of the property which is liable to be acquired under this Act.

(2) The fleet operator shall also within such time as may be specified by the Government furnish to them such information and particulars as may be required by the Government in regard to the documents relating to the property which is acquired or is liable to be acquired under this Act.

(3) The fleet operator shall not destroy any document as is referred to in sub-section (2) but shall hand over to the Government on the notified date all such documents and also such other documents as are necessary for ascertaining the terms of employment of the staff and for determining the compensation payable for the acquired property under this Act.

17. *Power to obtain information.*—The Government may, with a view to carrying out the purposes of this Act by order require any person to furnish to such officer as may be specified in the order, such information in his possession as may be specified relating to any stage carriage or other property which is acquired or is liable to be acquired under this Act.

18. *Power to enter and inspect.*—Any officer empowered in this behalf by the Government by general or special order, may enter any premises and inspect the acquired property with a view to carrying out the purposes of this Act.

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19. *Settlement of disputes.*—If any dispute arises regarding the number of stage carriage permits held by any operator on the 19th June 1971 or on any date subsequent to the 19th June 1971 such dispute shall be decided by the Government, whose decision shall be final :

Provided that before making such decision the fleet operator shall be given a reasonable opportunity of being heard.

20. *Service of orders.*—(1) Subject to the provisions of this section, and any rules that may be made under this Act, every order made under this Act shall,—

(a) in the case of any order of a general nature or affecting a class of persons, be published in the *Tamil Nadu Government Gazette*; and

(b) in the case of any order affecting an individual corporation or firm, be served in the manner provided for the service of summons in rule 2 of Order XXIX or rule 3 of Order XXX, as the case may be, in the First Schedule of the Code of Civil Procedure, 1908 (Central Act V of 1908); and

(c) in the case of any order affecting an individual person (not being a corporation or firm) be served on such person—

(i) by delivering or tendering it to that person, or

(ii) if it cannot be so delivered or tendered, by delivering or tendering it to any officer of such person or any adult male member of the family of such person, or by affixing a copy thereof on the outer door or on some conspicuous part of the premises in which that person is known to have last resided or carried on business or personally worked for gain; or failing service by these means,

(iii) by post,

(2) Where the ownership of the acquired property is in dispute or where the persons interested in the said property are not readily traceable and the order cannot be served without undue delay, the order may be served by publishing it in the *Tamil Nadu Government Gazette*, and where possible, by affixing a copy thereof on any conspicuous part of the acquired property or the premises where the acquired property was ordinarily kept before the date of vesting.

21. *Delegation of powers.*—The Government may, by notification, direct that the powers exercisable by them by or under this Act shall, in such circumstances and under such conditions, if any, as may be specified in the notification, be exercisable also by an officer subordinate to the Government.

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22. *Protection of action taken in good faith.*—(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

(2) No suit or other legal proceeding shall lie against the Government, the administrator or any other officer for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

23. *Bar of jurisdiction of civil courts.*—Save as otherwise expressly provided in this Act, no civil court shall have jurisdiction in respect of any matter which the Government are, or an arbitrator or authorised officer is, empowered by or under this Act to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

24. *Penalty for offences.*—Whoever contravenes any provision of this Act, or any rule made thereunder, or any order made or direction given under this Act, or obstructs the lawful exercise of any power conferred by or under this Act, shall be punishable with fine, which may extend to one thousand rupees.

25. *Certain persons to be public servants.*—Every arbitrator, administrator, authorised officer and every other officer empowered by the Government, while exercising any power of performing any duty under this Act, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Central Act XLV of 1860).

26. *Act to override other laws, etc.*—Save as otherwise provided in this Act, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Motor Vehicles Act or in any other law for the time being in force.

27. *Power to make rules.*—(1) The Government may make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the procedure to be followed in arbitration proceedings and appeals under this Act;

(b) the principles to be followed in apportioning the cost of proceedings before the arbitrator and on appeal under this Act;

(c) the manner of service of orders;

(d) any other matter which has to be, or may be, prescribed.

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(3) All rules made under this Act shall be published in the *Tamil Nadu Government Gazette* and unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

(4) Every rule made under this Act shall, as soon as possible after it is made, be placed on the table of both Houses of the Legislature, and if, before the expiry of the session in which it is so placed or the next session, both Houses agree in making any modification in any such rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE SCHEDULE.

(See section 5.)

Principles of compensation.

1. The compensation to be paid by the Government in respect of the acquired property shall be the market value of such acquired property as on the notified date.

2. In addition to the amount payable under paragraph 1, for every permit acquired under this Act there shall be paid,—

(i) a sum of one hundred rupees where the unexpired period of the permit is less than fifteen days;

(ii) in other cases, a sum of two hundred rupees for every complete month, or part of a month exceeding fifteen days, of the unexpired period of the permit :

Provided that the amount of compensation under this paragraph shall, in no case, be less than four hundred rupees.

I certify that this is a Money Bill.

Fort St. George,
Madras,

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K. A. MATHIALAGAN,
Speaker, Tamil Nadu Legislative Assembly.

APPENDIX IV.

[Vide item V (3) on page 225]

L.A. BILL No. 39 OF 1971.

(As passed by the Assembly.)

A Bill further to amend the Tamil Nadu General Sales Tax Act, 1959.

BE it enacted by the Legislature of the State of Tamil Nadu in the Twenty-second Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Tamil Nadu General Sales Tax (Fourth Amendment) Act, 1971.

(2) It shall be deemed to have come into force on the 1st August 1971.